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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 93-51
)	
MARTHA J. HUBER)	File No. BPH-911114ME
)	
RITA REYNA BRENT)	File No. BPH-911115MC
)	
MIDAMERICA ELECTRONICS SERVICE, INC.)	File No. BPH-911115ML
)	
STATON COMMUNICATIONS, INC.)	File No. BPH-911115MU
)	
For Construction Permit for)	
a New FM Station on)	
Channel 234A in)	
New Albany, Indiana)	

To: Administrative Law Judge
Richard L. Sippel

**MASS MEDIA BUREAU'S CONSOLIDATED COMMENTS ON
JOINT REQUEST FOR APPROVAL OF AGREEMENTS,
PETITION FOR LEAVE TO AMEND, AND
MOTION FOR SUMMARY DECISION**

1. On November 23, 1993, Martha J. Huber ("Huber"), Rita Reyna Brent ("Brent"), Midamerica Electronics Service, Inc. ("Midamerica"), and Staton Communications, Inc. ("Staton") filed a joint request for approval of agreements. Also, on November 23, 1993, Midamerica filed a petition for leave to amend and a motion for summary decision. Finally, on December 7, 1993, Huber, Brent, Midamerica and Staton filed a supplement to the joint request. The Mass Media Bureau submits the following consolidated comments.

2. The proposed settlement agreements contemplate: the dismissal of Brent's and Staton's applications in exchange for

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monetary payments of \$51,000 and \$25,000, respectively; the dismissal of Huber's application; and the grant of Midamerica's application, as amended. Midamerica proposes to amend its application by substituting for itself a new entity, New Albany Broadcasting Company, Inc. ("NABC"). Midamerica's sole shareholder, Peter C. L. Boyce, and Huber will each hold a 50% voting interest in NABC. Because of the merger, Huber and Midamerica seek to withdraw the integration commitments of their principals. Midamerica's amendment also proposes use of a new site. As a final matter, Midamerica moves for favorable resolution of the financial issues specified against it. See Memorandum Opinion and Order, FCC 93M-276, released May 18, 1993.

3. Review of the settlement agreements, including the declarations of the applicants' respective principals, shows that the applicants have complied with the requirements of Section 73.3525 of the Commission's Rules, which implement Section 311(c)(3) of the Communications Act of 1934, as amended. The applicants show that their applications were not filed for an improper purpose; that the amounts proposed to be paid Brent and Staton do not exceed their legitimate and prudent expenses; that the proposed merger between Huber and Midamerica is bona fide; and that approval of the joint request will serve the public interest by expediting provision of a new service. See Settlement Agreements, 6 FCC Rcd 85 (1990), modified, 6 FCC Rcd 2901, 2902 (1991); Venton Corporation, 90 FCC 2d 307 (1982). In


this regard, the Bureau has no objection to the new site proposed by Midamerica since we have determined that the technical proposal conforms with Commission requirements and use of the new site is an integral part of the settlement agreements.

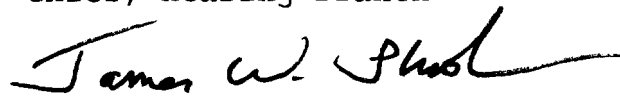
4. In addition, the Bureau has no objection to the withdrawal of the integration commitments of Huber and Midamerica's principal, Boyce. Both had proposed to work as the new station's general manager. With each to hold 50% of NABC, Huber and Boyce propose to hire a general manager. Where applicants that have made equivalent commitments merge, the Commission has permitted withdrawal of those commitments. See WCVO, Inc., FCC 92I-087 (OGC 1992).

5. Finally, for the reasons stated by Midamerica, the Bureau agrees that summary decision in Midamerica's favor is warranted. In the Bureau's view, Midamerica has demonstrated that no genuine issue of material fact exists for determination at a hearing. See Big Country Radio, Inc., 50 FCC 2d 967, 968 (Rev. Bd. 1975). In short, Midamerica was financially qualified at the time it filed its application. In addition, there is no question that the new entity, NABC, can meet its financial commitments, namely, construction of the new station and operation of that station for three months without revenue and payment of the amounts owed to dismissing applicants Brent and Staton.

6. Accordingly, the Bureau supports grant of the joint request, petition for leave to amend, and motion for summary decision; dismissal of the applications of Huber, Brent and Staton; grant of Midamerica's application, as amended; a ruling that NABC need not submit the report required by Section 73.1620(g) of the Commission's Rules, pursuant to Section 73.1620(g)(3); and termination of this proceeding.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau


Charles E. Dziedzic
Chief, Hearing Branch


James W. Shook
Attorney
Mass Media Bureau

Federal Communications Commission
2025 M Street, N.W.
Suite 7212
Washington, D.C. 20554
(202) 632-6402

December 8, 1993

CERTIFICATE OF SERVICE

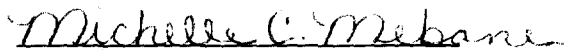
Michelle C. Mebane, secretary of the Hearing Branch, Mass Media Bureau, certifies that she has on this 8th day of December, 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Consolidated Comments on Joint Request for Approval of Settlement Agreement, Petition for Leave to Amend, and Motion for Summary Decision"** to:

Morton L. Berfield, Esq.
Cohen and Berfield, P.C.
1129 20th Street, N.W.
Washington, D.C. 20036

Henry A. Solomon, Esq.
Haley, Bader & Potts
4350 North Fairfax Drive, Suite 900
Arlington, Virginia 22203-1633

Bradford D. Carey, Esq.
Marjorie R. Esman, Esq.
Hardy & Carey, L.L.P.
111 Veterans Memorial Boulevard, Suite 255
Metairie, Louisiana 70005

Donald J. Evans, Esq.
McFadden, Evans & Sill
1627 I Street, N.W., Suite 810
Washington, D.C. 20006


Michelle C. Mebane